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HOUSE BILL 178

43RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1998

INTRODUCED BY

MAX COLL

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL IMPROVEMENTS; ENACTING THE  
PUBLIC SCHOOL CAPITAL EQUALIZATION ACT; AUTHORIZING THE  
ISSUANCE OF SEVERANCE TAX BONDS FOR PUBLIC SCHOOL CAPITAL  
PROJECTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE  
NMSA 1978; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. [ NEW MATERIAL ] SHORT TITLE. -- Sections 1  
through 7 of this act may be cited as the "Public School  
Capital Equalization Act".

Section 2. [ NEW MATERIAL ] FINDINGS AND PURPOSE. --

A. The legislature finds that, because of growth  
rates, income levels, the presence or absence of natural  
resources and other factors, a disparity exists between school  
districts concerning their ability to finance public school

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1 capital improvements. The legislature further finds that  
2 there is no adequate remedy for the disparity under existing  
3 law.

4 B. The purpose of the Public School Capital  
5 Equalization Act is to equalize the funding for public school  
6 capital improvements by providing an equitable procedure for  
7 allocating state resources and by dedicating one-half of the  
8 severance tax bonding capacity to public school capital  
9 improvements.

10 Section 3. [NEW MATERIAL] DEFINITIONS. --As used in the  
11 Public School Capital Equalization Act:

- 12 A. "capital project" means:
- 13 (1) constructing, renovating or purchasing
  - 14 public school buildings; or
  - 15 (2) purchasing or improving public school
  - 16 grounds; and

17 B. "council" means the public school capital  
18 outlay council.

19 Section 4. [NEW MATERIAL] PUBLIC SCHOOL CAPITAL  
20 EQUALIZATION. --

21 A. A school district in need of funding for a  
22 capital project may submit an application to the council.  
23 Each application shall be in a form approved by the council  
24 and shall include:

- 25 (1) a description of the capital project;

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1 (2) an explanation of the need for the  
2 capital project;

3 (3) a description of efforts used by  
4 residents of the school district to meet the district's  
5 capital outlay requirements;

6 (4) documentation showing how the school  
7 district has used its financial resources;

8 (5) a calculation showing that the percentage  
9 of the total debt authorized by law that the school district  
10 has assumed is greater than fifty percent;

11 (6) a five-year facilities plan that includes  
12 capital priorities and enrollment projections; and

13 (7) evidence that the school district can  
14 meet any requirements for matching funds.

15 B. At least once each fiscal year the council  
16 shall consider all complete applications at a public hearing  
17 and prioritize the projects based upon the critical need for  
18 each capital project.

19 Section 5. [NEW MATERIAL] LEVEL OF STATE FUNDING-- SCHOOL  
20 DISTRICT MATCH. --

21 A. For each capital project prioritized, the  
22 council shall calculate the amount of the total capital  
23 project cost that may be funded with severance tax bond  
24 proceeds and the amount of the total capital project cost that  
25 the school district shall be required to fund with its own

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1 resources or with grant assistance pursuant to the Public  
2 School Capital Outlay Act.

3 B. The percentage of the total capital project  
4 cost that may be funded with severance tax bond proceeds shall  
5 be calculated by subtracting one hundred from twice the  
6 percentage of the total debt authorized by law that the school  
7 district has assumed.

8 C. The school district shall match with its own  
9 funds or with grant assistance pursuant to the Public School  
10 Capital Outlay Act the portion of the total project cost not  
11 funded by severance tax bond proceeds.

12 D. No capital project shall be funded in phases or  
13 by installments. The total capital project cost shall include  
14 an amount sufficient to complete the capital project.

15 Section 6. [NEW MATERIAL] SEVERANCE TAX BONDS--  
16 APPROPRIATION OF PROCEEDS. --

17 A. After estimating the severance tax bonding  
18 capacity available for capital projects, the council shall  
19 allocate the capacity, in the prioritized order, to the  
20 portion of the capital projects to be funded by severance tax  
21 bond proceeds. When the council finds that the capital  
22 projects have been developed sufficiently to justify the  
23 issuance and that the capital projects can proceed to contract  
24 within a reasonable time, the council shall, by resolution,  
25 request severance tax bonds to be issued in the amount

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1 necessary to fund the capital projects.

2 B. Unless prohibited by the provisions of Section  
3 7-27-14 NMSA 1978, the state board of finance shall issue and  
4 sell severance tax bonds in compliance with the Severance Tax  
5 Bonding Act in the amount requested by the council. The state  
6 board of finance shall schedule the issuance and sale of the  
7 bonds in the most expeditious and economical manner possible.  
8 The state board of finance shall further take the appropriate  
9 steps necessary to comply with the Internal Revenue Code of  
10 1986, as amended.

11 C. Proceeds from the sale of the bonds are  
12 appropriated to the state department of public education for  
13 the purpose of paying the portion of the capital projects to  
14 be funded with the proceeds. Any unexpended or unencumbered  
15 balance remaining after six months following the completion of  
16 a capital project shall revert to the severance tax bonding  
17 fund.

18 Section 7. [NEW MATERIAL] RULES. --The state department  
19 of public education may adopt such rules as are necessary to  
20 carry out the provisions of the Public School Capital  
21 Equalization Act.

22 Section 8. A new Section 7-27-12.1 NMSA 1978 is enacted  
23 to read:

24 "7-27-12.1. [NEW MATERIAL] BONDS TO BE ISSUED-- SPECIFIC  
25 AUTHORIZATION. --

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1           A. Unless prohibited by the provisions of Section  
2 7-27-14 NMSA 1978, the state board of finance shall issue and  
3 sell severance tax bonds when specifically authorized to do so  
4 by a law that specifies the amount and purpose of the issue  
5 and the recipient of the bond proceeds. The board shall issue  
6 and sell the severance tax bonds only when so instructed by  
7 resolution of the governing body of the recipient of the bond  
8 proceeds.

9           B. The state board of finance shall also issue and  
10 sell severance tax bonds authorized by Sections 72-14-36  
11 through 72-14-42 NMSA 1978, and such authority as has been  
12 given to the interstate stream commission to issue and sell  
13 such bonds is transferred to the state board of finance. "

14           Section 9. A new Section 7-27-12.2 NMSA 1978 is enacted  
15 to read:

16           "7-27-12.2. [NEW MATERIAL] BONDS TO BE ISSUED--PUBLIC  
17 SCHOOL CAPITAL EQUALIZATION ACT.--Unless prohibited by the  
18 provisions of Section 7-27-14 NMSA 1978, the state board of  
19 finance shall issue and sell severance tax bonds when  
20 requested to do so by resolution of the public school capital  
21 outlay council pursuant to the Public School Capital  
22 Equalization Act. "

23           Section 10. Section 7-27-14 NMSA 1978 (being Laws 1961,  
24 Chapter 5, Section 11) is amended to read:

25           "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

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1           A. The legislature shall provide for the continued  
2 assessment, levy, collection and deposit into the severance  
3 tax bonding fund of the tax or taxes upon natural resource  
4 products severed and saved from the soil of the state [ ~~which~~  
5 that, together with such other income as may be deposited to  
6 the fund, will be sufficient to produce an amount [ ~~which~~] that  
7 is at least the amount necessary to meet annual debt service  
8 charges on all outstanding severance tax bonds.

9           ~~[B. The state board of finance shall issue no  
10 severance tax bonds unless the aggregate amount outstanding,  
11 including any severance tax bonds authorized prior to the  
12 enactment of this Severance Tax Bonding Act, but not yet  
13 issued, and including the issue proposed, can be serviced with  
14 not more than fifty percent of the annual deposits into the  
15 severance tax bonding fund, as determined by the deposits  
16 during the preceding fiscal year.]~~

17           B. The state board of finance shall issue no  
18 severance tax bonds pursuant to Section 7-27-12.1 NMSA 1978  
19 unless the aggregate amount outstanding for bonds issued  
20 pursuant to that section, including the issue proposed, can be  
21 serviced with not more than one-half of the difference  
22 between:

23                       (1) fifty percent of the annual deposits into  
24 the severance tax bonding fund, as determined by the deposits  
25 during the preceding fiscal year; and

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1                   (2) the amount needed during the current  
2 fiscal year for any debt service remaining on those severance  
3 tax bonds outstanding on July 1, 1998.

4                   C. The state board of finance shall issue no  
5 severance tax bonds pursuant to Section 7-27-12.2 NMSA 1978  
6 unless the aggregate amount outstanding for bonds issued  
7 pursuant to that section, including the issue proposed, can be  
8 serviced with not more than one-half of the difference  
9 between:

10                   (1) fifty percent of the annual deposits into  
11 the severance tax bonding fund, as determined by the deposits  
12 during the preceding fiscal year; and

13                   (2) the amount needed during the current  
14 fiscal year for any debt service remaining on those severance  
15 tax bonds outstanding on July 1, 1998.

16                   [~~C.~~] D. The provisions of this section shall not  
17 be modified by the terms of any bonds hereafter issued. "

18                   Section 11. **TEMPORARY PROVISION.** --All severance tax  
19 bonds authorized, but not issued, before the effective date of  
20 this act shall be issued pursuant to Section 7-27-12.1 NMSA  
21 1978.

22                   Section 12. **REPEAL.** --Section 7-27-12 NMSA 1978 (being  
23 Laws 1961, Chapter 5, Section 10, as amended) is repealed.

24                   Section 13. **EFFECTIVE DATE.** --The effective date of the  
25 provisions of this act is July 1, 1998.